

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

United States of America,

Case No. 3:20-cr-634

Plaintiff,

v.

ORDER

Andy Ross Thomas,

Defendant.

Defendant Andy Ross Thomas seeks an order that Defense Exhibit 116 – the ex parte temporary protection order issued and served on Thomas on June 6, 2019 – is admissible at trial. (Doc. No. 65). The parties have stipulated that this document is authentic but were unable to agree upon its admissibility. (*Id.* at 1). Counsel for Thomas intends to discuss this document during opening statements and requests a preliminary ruling regarding its admissibility. The government opposes Thomas’ motion, arguing it would be premature to admit the document before its relevancy is established through “witness testimony or other supporting evidence.” (Doc. No. 67 at 1).

Evidence generally is admissible if it is relevant, Federal Rule of Evidence 402, and evidence is relevant if that evidence “has a tendency to make a fact more or less probable than it would be without the evidence . . . and the fact is of consequence in determining the action.” Fed. R. Evid. 401.

Thomas intends to argue the ex parte protection order (more specifically, the severity of the restrictions in that order and its placement in the sequence of events preceding his completion of

ATF Form 4473 in April 2020) makes it less probable that he acted with knowledge of the facts that made his conduct unlawful. I conclude Defense Exhibit 116 is admissible for this limited purpose and defense counsel may reference the document during his opening statement. I will reserve admission of this document into evidence until after Thomas has established a proper basis during trial.

So Ordered.

s/ Jeffrey J. Helmick
United States District Judge